

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 20 AUGUST 2013

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor David Snowdon (Chair)

Councillor Rajib Ahmed
Councillor Peter Golds

Other Councillors Present:

Councillor Zara Davis

Officers Present:

Mohshin Ali	– (Senior Licensing Officer)
Paul Greeno	– (Senior Advocate, Legal Services, Chief Executive's)
Alex Lisowski	– (Licensing Officer)
Ian Wareing	– (Environmental Protection)
Simmi Yesmin	– (Senior Committee Officer, Democratic Services)

Applicants In Attendance:

Shaheen Ahmed	- (Falcon News)
Ijaz Ahmed	- (Falcon News)
Ben Allali	- (Ferry House)
Anthony Hoete	- (Rhythm Factory)
Bernie Bakpa	- (Rhythm Factory)

Objectors In Attendance:

Kaan Gulcelik	- (Resident)
Jackie Fox	- (Resident)
Phil Crier	- (PBC Licensing)
Khaled Ahmed Ali	- (Resident)
PC Mark Perry	- (Metropolitan Police)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of disclosable pecuniary interest.

3. RULES OF PROCEDURE

The rules of procedure were noted.

4. UNRESTRICTED MINUTES

The minutes of the Licensing Sub Committee meeting held on 23rd July 2013 were agreed and approved as a correct record.

5. ITEMS FOR CONSIDERATION**5.1 Application for a New Premises Licence for Falcon News, 156 Bethnal Green Road, London, E2 6DG**

At the request of the Chair, Mr Mohshin Ali, Senior Licensing Officer, introduced the report which detailed the application for a new premises licence for Falcon News, 156 Bethnal Green Road, London E2 6DG. It was noted that objections had been made by local residents.

Paul Greeno, Senior Advocate gave advice to Members and explained that the majority of the representations had been complaints based on the lack of enforcement in the area and allegations of conditions being breached at another premises owned by the applicants.

Mr Ali, stated that five test purchases had been undertaken at the premises that was mentioned by the objectors, four by Licensing Services and one by Trading Standards since August 2012 and all five had been negative which meant that the applicants had been compliant with their existing licensing conditions for their premises at 183 Bethnal Green Road.

At the request of the Chair, Ms Shaheen Ahmed, Applicant, gave a brief history of the premises, explaining that the premises had been open since 2006 as a newsagent, and that their customers were mainly local residents. She explained that the reason for the application was to cater for a new demand from customers who wanted to purchase alcohol with their daily confectionary and groceries etc. She noted the concerns raised in relation to her other premises at 183 Bethnal Green Road, however she stated that it had been managed by someone else who she had rented the premises out to

but had recently taken over again. She further explained that it was a smaller shop than 152 Bethnal Green Road and she did not accept the allegations made about the 24hour sale of alcohol, and underage sales etc. it was noted that she would investigate into this matter and do the appropriate checks.

Ms Ahmed then highlighted the concerns of anti-social behaviour in the area and sympathised with the residents and expressed a willingness to work with the police and possibly reduce the hours applied for if this helped alleviate concerns. Ms Ahmed continued to talk about the issues in the area and mentioned the fact that Mr Kaan Gulcelik, Lead Objector, he himself owned the premises next door which also sold alcohol.

At the request of the chair, Ms Janet Fox, local resident stated that the premises maybe small but alleged still sold alcohol to those that were drunk and under the influence of drugs. She stated that there too many premises selling alcohol already and another one would cause more anti-social behaviour and public nuisance than what currently existed.

Members then heard from Mr Kaan Gulcelik, objector, who referred to his statement contained in the agenda and stated that the applicants sold to underage children, and sold outside their licensing hours causing violence and anti-social behaviour in the area.

In response to questions, Mr Ali reconfirmed that five test purchases had been undertaken at the premises on 183 Bethnal Green Road, four by Licensing Services and one by Trading Standards which had been all been negative which meant that the applicants compliant with their existing licence.

Members expressed concern about the early sale of alcohol and the display area used to display alcohol in the premises. It was noted that Mr Gulcelik's premises was next door to the premises itself and were identical in size. It was further noted that the premises had CCTV cameras both internal and external to the premises. In response to a further question Mr Ijaz Ahmed, Manager, stated that he did want to sell single cans/bottles as some customers preferred to buy just the one can/bottle instead of a multipack, however did not object to selling low strength beers, largers and ciders.

Members retired to consider their decision at 7.10pm and reconvened at 7.25pm.

The Licensing Objectives

In considering these applications, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Licensing Guidance and the Council's Statement of Licensing Policy.

Consideration

Each application must be considered on its own merits and after careful consideration the Chair stated that the Sub Committee had decided to grant

the licence and impose additional conditions in order to address the concerns raised in relation to the licensing objectives of “the prevention of public nuisance” and “the prevention of crime and disorder”.

The Sub Committee listened carefully to Ms Ahmed and Mr Gulcelik and Ms Fox. There was no hard evidence that had been presented to the Sub Committee to show that the applicant had breached their current licence at a different premise. The Chair explained that each application was considered individually and on its own merits and therefore could not be based on another premises.

However, Members did note the concerns raised by the objectors and noted that there had been five (5) test purchases undertaken at that premises – four (4) by Licensing and one (1) by Trading Standards since August 2012 and all five had been negative which meant that the applicants had been compliant with their existing licensing conditions for their premises at 183 Bethnal Green Road.

Members noted that the remainder of the objections related to crime and disorder and public nuisance and which it was said existed in the area. Members therefore deliberated whether the grant of this licence would lead to an increase in such. Members were not satisfied that it would be did consider that the additional conditions imposed in terms of amended hours for sale of alcohol, and the restriction to sell single cans/bottles and high strength alcohol would address the concerns raised by objectors in terms of street drinking and alcohol related anti-social behaviour. Further, it was noted that only part of the premises would be available for the sale of alcohol and that the plan showing were alcohol would be supplied from would form part of the licence.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a New Premises Licence for Falcon News, 156 Bethnal Green Road, London E2 6DG, be **GRANTED**, with conditions;

Sale of Alcohol

Monday to Sunday from 10:00 hours to 23:00 hours

Hours premises are open to the public

Monday to Sunday from 08:00 hours to 23:00 hours

Conditions

1. This premise shall not sell any beer, lager or cider that exceeds the strength of 5.6 abv.

2. That the shop floor plan on page 50 of the agenda showing the intended areas for display of alcohol shall form part of the licence.
3. Single cans/bottles of beer, larger or cider can only be sold when 3 or more bottles/cans are purchased together.

5.2 Application for a New Premises Licence for First Floor, Ferry House, 26 Ferry Street, London, E14 3DT

At the request of the Chair, Mr Mohshin Ali, Senior Licensing Officer, introduced the report which detailed the application for a new premises licence for First Floor, Ferry House, 26 Ferry Street, London E14 3DT. It was noted that objections had been made by local residents, Environmental Health, Freeholders and the Licensing Authority.

It was noted that further amendments had been made to the application and the Applicant had agreed to operate the Challenge 21 Policy, suggested by Trading Standards and a number of conditions set by the Police were also agreed.

Mr Greeno then advised Members that there was an existing premises licence for the ground floor, and that Members were here to only consider the premises licence application for the 1st Floor of the premises, and if Members were minded to grant the application then this would need to compliment the premises licence on the ground floor in order for enforceability.

At the request of the Chair, Mr Ben Allali, Applicant, explained that this premises had been a licensed venue for 300 years. He explained that he wanted a separate licence for the first floor in order to lease out a franchise to a restaurant to solely operate on the first floor. He explained that this would be run by new owners, new management, and new staff and would be independent from the pub on the ground floor. He explained that he had been operating the premises for 18 months and has had no problems. It was noted that alcohol would be served with food only and there would be no vertical drinking, as well as this he offered to limit the capacity of the premises to 64 people.

Mr Allali stated that he currently had French Tour Operators coming weekly with approximately 300 people at lunch times and was now looking to come in the evenings too. It was noted that the premises was covered by CCTV cameras as well as this there was a camera on the street facing the premises which would easily detect if there were any breaches of the licence.

He concluded that the premises, was surrounded by four other premises including restaurants and a pub providing regulated entertainment etc. Mr Allali stated that the hours applied for were within the council framework hours and that there were other venues which had multiple licenses whilst using the same entrance.

Members then heard from Mr Ian Wareing, Environmental Health who explained that having two licenses in the same building would cause problems. He then referred to the history of complaints detailed in his statement. He did mention that the applicant had offered to remove the regulated entertainment from the application and had offered to restrict the use of the balcony area. Mr Wareing also raised concerns that this premises could potentially have up to 42 days of temporary events.

Mr Alex Lisowski, Licensing Services, referred to his statement detailed in the agenda and stated that it would be impossible to detect and enforce conditions if there were two separate licences. He suggested that the applicant resubmit the application as a variation application instead.

Cllr Zara Davis, Ward Councillor, spoke on behalf of Deni Butterfield and Gerald Berthier, local resident objectors, and explained how the premises had been managed since the applicant had taken over, she expressed concerns that current licensing hours and conditions had been breached by staying open beyond the opening hours, patrons consuming alcohol outside the premises, doors and windows being kept open, holding karaoke nights on days not licensed to and generally customers causing anti-social behaviour and public nuisance when leaving the premises.

Members then heard from, Mr Phil Crier, Agent for the Ferry Street LLP Freeholders, explained that he represented eight apartments on Ferry Street. He briefly summarised the concerns relating to the premises and stated that if a licence was granted it would give rise to difficulties of enforcement. He stated that the freeholders had no objection to the restaurant but had issues with their being two licenses active in one premises. He then concluded that if Members were inclined to grant the application then the conditions suggested by the Police should be strengthened.

In response to questions it was noted that there was no specific details of who the franchise would be given too, but a strong possibility it would be a French Tour Operator that currently used Ferry House as a rest stop, for tourists. Mr Allali also confirmed that he would remove himself as the Designated Premises Supervisor once the franchise was transferred.

Mr Allali stated that he had been trading for 18 months, and had no problem and if any problems were to occur then interested parties would have the power to review the licence. Upon further questioning it was noted that conditions would need to be strengthened and Mr Allali did not wish to restrict the opening times to lunch time only as it was intended that the restaurant would be open in the evenings too.

Members retired to consider their decision at 8.20pm and reconvened at 8.40pm.

Consideration

Members considered this matter carefully noting the representations against and what Mr Allali has said. In taking a decision Members had regard to the Licensing Act 2003, the Licensing Objectives, the Statement of Licensing Policy and the Licensing Guidance.

Members noted that this was an application for a licence for the 1st floor of the Ferry House and that there was a licence for the ground floor with conditions. Members had heard that there were breaches of those conditions, specifically condition 7. Mr Allali initially denied any reaches but then said that they may have occurred when he was not there. Members were satisfied, on balance, that there had been breaches, especially of condition 7.

Members were also mindful that if they were to grant a licence of the 1st Floor, then they would have to be satisfied that those conditions would be complied with. The matter was complicated in the fact that conditions on the ground floor could conflict with conditions on the 1st floor and although Members considered that they could impose conditions for the ground floor, they did consider that there could be potential problems in enforcement. This would not be an obstacle if they were satisfied that conditions were currently being complied with but they could not. This difficulty in enforcement, coupled with the current breaches, meant that Members were not satisfied that these conditions would be complied with and a natural consequence of this would be difficulties of enforcement. It was important that conditions are capable of being enforced for there to be confidence in the system and a lack of ability to enforce enforcement due to conflict in conditions would undermine such confidence. Therefore for crime and disorder reasons the application was refused.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a New Premises Licence for First Floor, Ferry House, 26 Ferry Street, London E14 3DT, be **REFUSED**.

5.3 Application for a Temporary Event Notice for Car Park rear of Rhythm Factory, 16-18 Whitechapel Road, London E1 1EW

At the request of the Chair, Mr Mohshin Ali, Senior Licensing Officer, introduced the report which detailed the application for a Temporary Event Notice for the Car Park rear of Rhythm Factory, 16-18 Whitechapel Road, London E1 1EW. It was noted that objections had been made by Environmental Health and the Metropolitan Police.

At the request of the Chair, Mr Anthony Hoete, Agent for the Applicant explained that the Police had requested for information which were not required for TEN applications, however, these had been provided to the Police. Mr Hoete questioned the reasons for the objections made by both the

responsible authorities as he believed it could have been a part of the process and only a duty of care to object to every application.

He explained that there had only been one incident in the venue in 14 years and as a duty of care the police had been called to the venue. He explained that there had been no communication from the Police when the application was sent in, all additional information requested had been provided, there would be ten SIA security staff, twice the staffing then what the guideline suggested.

Mr Hoete, explained that patrons would pass through the Rhythm Factory as a secure entry to the car park, the building opposite the car park was unoccupied and therefore no potential to cause disturbance to residents. In summary he stated that the Police objections were unfounded and happy to agree noise levels with Environmental Health to address their concerns.

At this point Mr Greeno, asked if an option would be for noise levels to be monitored and a way of enforcement would be to serve an abatement notice to the applicant if noise levels were exceeded. Mr Wareing stated that music playing constantly was difficult to monitor. He confirmed that statutory nuisance could be dealt with by way of an abatement notice, however public nuisance could not be.

PC Mark Perry, Metropolitan Police stated that he didn't regularly object to applications as just part of a process, but objected to applications when necessary. He stated that the application did not include a risk assessment, a security plan etc and for an event for 499 people this needed to be done in order to be managed and policed well. He concluded that the risk assessment provided was not sufficient, it was too rushed and there was risk of crime and disorder.

Mr Wareing mentioned that there were two other events being advertised at the Rhythm Factory, one at 10pm and one at 11pm the same day as the temporary event. After much discussion it was noted that some tickets had been sold for these events but the rest would be sold at the door.

In response to further questions the applicant confirmed that there would be little cross over between events as it was unlikely that the same people would attend both events (day and night).

It was also noted that there were going to readily available porter loos for the event and patrons would be leaving the event via the footpath on Plumbers Road leading onto Whitechapel Road.

Members retired to consider their decision at 9.10pm and reconvened at 9.25pm.

The Licensing Objectives

In considering these applications, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing

Objectives, the Licensing Guidance and the Council's Statement of Licensing Policy.

Consideration

Each application must be considered on its own merits and after careful consideration the Chair stated that the Sub Committee had decided to refuse the application.

Members were concerned that the event would finish at 10pm and another event inside the Rhythm Factory would start at 11pm although advertised to start at 10pm. This would mean 499 patrons leaving the proposed temporary event and 400 people entering the premises. Members considered that this would cause chaos and be difficult to manage and would lead to disorder and public nuisance

In regards, to issues of noise nuisance, this could have been dealt with, by way of an abatement notice served to the applicant if noise levels were high. However the main concerns were over access and egress, which would have been likely to have caused public nuisance and public disorder. Members were also concerned that there was no or little cross over between the two events as confirmed by the applicant. There would therefore be a large number of people entering and leaving at the same time with consequent problems of public disorder. Had there been a cross over between the two events, then the decision may have been different.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a Temporary Event Notice for Car Park rear of Rhythm Factory, 16-18 Whitechapel Road, London E1 1EW, be **REFUSED**.

6. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was no other business.

The meeting ended at 9.30 p.m.

Chair, Councillor David Snowdon
Licensing Sub Committee